proceedings begun by the trustee. *In re Eliowich* (1906), — D. C., S. D., N. Y. —, 148 Fed. Rep. 510.

This case presents a rather novel situation. When the referee allowed the vendor to rescind the sale to the bankrupt, the title both to the goods and the proceeds of those goods not found, reverted to the vendor, and the bankrupt's possession became wrongful. After the sale was rescinded, the trustee had no cause of action against the bankrupt, and, consequently, no cause of action to assign to the vendor. The only right which the latter had was an unliquidated claim in tort for the goods not specifically found. If this action were allowed, the vendor would practically be suing the bankrupt in a bankruptcy court for wrongfully taking merchandise. If this action could be maintained, there is no reason why a vendor, under similar circumstances, can not take the same course in an original proceeding and thus collect debts through imprisonment, after bankruptcy, in a manner impossible by the ordinary process of law.

BANKRUPTCY—FRAUDULENT CONVEYANCE—VENDOR'S LIEN.—S. executed a promissory note to W., which E. signed as surety. Later S. and wife executed a conveyance of their land to E. and wife. As part of the consideration for the conveyance, E. was to pay the amount of the note executed to W. Shortly after this, E. and wife conveyed this land to P., who reconveyed it the same day for no consideration to E's wife. The note to W. was not paid, and soon after the latter conveyance, E. was adjudged a bankrupt. S. was insolvent and refused to enforce the vendor's lien for the purchase price. *Held,* that the creditor could enforce the vendor's lien against the land, in her own name, for the amount of the note. *Eisman* v. *Whalen et al.* (1906), — Ind. —, 79 N. E. Rep. 514.

The question as to the application of the vendor's lien is one on which the courts are in hopeless confusion. Some courts hold that a lien arises in favor of the unpaid vendor by implication of law without any express reservation, *Sims* v. *National Commercial Bank,* 73 Ala. 248; *Sears* v. *Smith,* 2 Mich. 243; *Warner* v. *Van Alstyne,* 3 Paige (N. Y.) 513. Others take the view that the lien arises not by implication of law but only by an express agreement, *Greeno* v. *Bernard,* 18 Kan. 518; *Ahrend* v. *Odiorne,* 118 Mass. 261; and in some of the states that is the rule by statute, *Roanoke Brick & Lime Co.* v. *Simmons,* 20 S. E. 955 (Va.); *Lough* v. *Michael,* 37 W. Va. 679. It is generally held, however, that where there is an express agreement between the vendor and vendee that the purchase money or a part of it shall be paid to a third person, the lien may be enforced in behalf of such third person, AM. & ENG. ENCYCLOPEDIA OF LAW, vol. 29, p. 749; *Tysen* v. *Wabash Ry.,* 15 Fed. 763; *Carver* v. *Eads,* 65 Ala. 190; *Francis* v. *Wells,* 7 Colo. 660; *Mize* v. *Barnes,* 78 Ky. 506; *De L'Isle* v. *Moss,* 34 La. Ann. 164; *Rutland* v. *Brister,* 53 Miss. 683; *Simily* v. *Adams,* 88 Mo. App. 621; *Thompson* v. *Thompson,* 3 Lea. (Tenn.) 126; *Joinder* v. *Perkins,* 59 Tex. 300. The lien as to third persons will not be implied; it must be created by plain terms, *Hepburn* v. *Snyder,* 3 Pa. (3 Barr.) 72. In North Dakota, where the lien is given to the vendor by statute, it has been held to exclude the idea of a lien existing in third parties even where there was an agreement that the money should be paid to that party, *Bray* v. *Booker,* 6 N. Dak. 526.